

Congress of the United States
Washington, DC 20515

September 27, 2021

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

I write to express serious concerns regarding both the outcome and process surrounding the Centers for Medicare & Medicaid Services' (CMS) fiscal year (FY) 2022 Hospital Inpatient Prospective Payment System (IPPS) final rule, specifically with respect to laser interstitial thermal therapy (LITT). If the final rule remains, it threatens to remove a critical therapy option for inoperable patients suffering from brain cancer and epilepsy while setting a dangerous precedent of enacting rules without stakeholder feedback.

My home state of Minnesota is home to many breakthrough innovations that improve lives and bring hope to those confronting a difficult diagnosis. One of these innovations is LITT. Utilized by neurosurgeons across the country and manufactured in Minnesota, LITT removes or shrinks tumors and lesions in a patient's skull. This procedure is most often used for patients with brain tumors and epilepsy who are unable to undergo a craniotomy or those who have not seen success through other therapies. Under CMS' FY 2022 Hospital IPPS final rule – effective October 1, 2021 – LITT payment codes were reassigned, reducing hospital compensation by approximately 25%. Should this reassignment stand, some hospitals have already indicated they will stop providing LITT treatment, leaving many of these inoperable patients without an alternative.

Moreover, it has come to my attention that a procedural misstep in reassigning these codes has occurred: CMS did not raise these code reassignments in the FY 2022 IPPS proposed rule, nor did they provide an obligatory period for the public to comment, as required by the Administrative Procedures Act. This procedural oversight by CMS sets a dangerous precedent and must be immediately remedied.

I strongly urge CMS to rescind its decision to reassign the codes for LITT brain and brain stem procedures and allow for a robust, substantive engagement with the stakeholder community through future standard notice and comment.

Thank you for your attention to this urgent matter.

Sincerely,



Tom Emmer
Member of Congress